

To: Jill M. Pietrini(trademarksCC@sheppardmullin.com)
Subject: U.S. Trademark Application Serial No. 90468939 - HAPPIER HEALTH - 63KS-285164
Sent: July 06, 2023 11:08:58 AM EDT
Sent As: tmng.notices@uspto.gov

Attachments

**United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application**

U.S. Application Serial No. 90468939

Mark: HAPPIER HEALTH

Correspondence Address:

Jill M. Pietrini
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 AVENUE OF THE STARS, SUITE 1600
LOS ANGELES CA 90067
UNITED STATES

Applicant: Happier Living, Inc.

Reference/Docket No. 63KS-285164

Correspondence Email Address: trademarksCC@sheppardmullin.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

Request an extension. For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

Issue date: July 6, 2023

The Office has reassigned this application to the undersigned trademark examining attorney.

This Office action is supplemental to and supersedes the previous Office action issued on April 13, 2023 in connection with this application. The newly assigned trademark examining attorney wishes to

correct the record by addressing an issue inadvertently omitted from the previous Office action. *See* TMEP §§706, 711.02. In particular, certain items in the identification of goods are not acceptable because they are beyond the scope of the goods identified in the original application. The trademark examining attorney apologizes for any inconvenience caused by the delay in raising this issue.

In the previous April 13, 2023 Office action, applicant was required to amend the wording "Books in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design". The applicant so amended these goods, but they are among those that are beyond the scope of the goods identified in the original application.

Applicant must address the issue in this Office action.

Amended Identification of Goods Required

The stated requirement refers only to the goods specified below and does not bar registration for the other goods identified in the application.

The original identification of goods in the application is:

Audio-books contained on disc or in electronic format such as mpegs or other prerecorded audio formats in the fields of meditation, health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Cases for holding compact discs, DVDs, and other electronic media; Computer accessories and peripherals; Computer software in the field of medical practice management; Downloadable computer application software for mobile phones, namely, software for meditation instruction; Downloadable computer software for meditation instruction in the fields of health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Downloadable electronic publications in the nature of books, booklets, magazines, journals, brochures, pamphlets and newsletters, all in the field of medical practice management; Mouse pads; Skins or covers for cell phones, PDAs, laptops, portable media players, tablet computers, e-book readers; Timers to be used for meditation purposes

Applicant seeks to amend the identification to:

Audio-books contained on disc or in electronic format such as mpegs or other prerecorded audio formats in the fields of meditation, health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Cases for holding compact discs, DVDs, and other electronic media; Computer accessories, namely, computer peripherals; Downloadable and recorded computer software for data processing, billing, collections, referrals, records management, operations, scheduling, staff support, and recruitment in the field of medical practice management; Downloadable computer application software for mobile phones, namely, software for meditation instruction; Downloadable computer software for meditation instruction in the fields of health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Downloadable electronic publications in the nature of books, booklets, magazines, journals, brochures, pamphlets and newsletters, all in the field of medical practice management; Mouse pads; Skins or covers for cell phones, PDAs, laptops, portable media players, tablet computers, e-book readers; Timers to be used for meditation purposes; *Downloadable electronic appointment books; Binders for CDs; Downloadable and recorded electronic books in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design; Downloadable printable pocket calendars; Downloadable digital calendars;*

Downloadable magazines in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design; Pre-recorded, non-downloadable video discs, video recording and video tapes featuring health, fitness, exercise, wellness, personal development, mental therapy, and medicine

The wording that is *italicized* in the identification, above, is not acceptable because it exceeds the scope of the original identification in the application. *See* 37 C.F.R. §§2.32(a)(6), 2.71(a); TMEP §§805, 1402.06 *et seq.*, 1402.07. In particular, the original identification did not include appointment books, binders, books in the fields of healthcare, lifestyle, travel, entertainment, and/or design, calendars, magazines in the fields of wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and/or design, or pre-recorded, non-downloadable video discs, video recording and video tapes. Applicant's goods may be clarified or limited, but may not be expanded beyond those originally itemized in the application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06.

Applicant may adopt any or all of the following identification, if accurate. In the following, proposed amendments are in **bold**.

Audio-books contained on disc or in electronic format such as mpegs or other prerecorded audio formats in the fields of meditation, health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Cases for holding compact discs, DVDs, and other electronic media; Computer accessories, namely, computer peripherals; Downloadable and recorded computer software for data processing, billing, collections, referrals, records management, operations, scheduling, staff support, and recruitment in the field of medical practice management; Downloadable computer application software for mobile phones, namely, software for meditation instruction; Downloadable computer software for meditation instruction in the fields of health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Downloadable electronic publications in the nature of books, booklets, magazines, journals, brochures, pamphlets and newsletters, all in the field of medical practice management; Mouse pads; Skins or covers for cell phones, PDAs, laptops, portable media players, tablet computers, e-book readers; Timers to be used for meditation **purposes; Downloadable and recorded electronic audio books in the fields of medical practice management, wellness, behavioral health; Downloadable electronic books in the field of medical practice management; Downloadable electronic magazines in the fields of medical practice management**

For assistance with identifying and classifying goods in trademark applications, please see the USPTO's online searchable [*U.S. Acceptable Identification of Goods and Services Manual*](#). *See* TMEP §1402.04.

Applicant may amend the identification to clarify or limit the goods, but not to broaden or expand the goods beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods may not later be reinserted. *See* TMEP §1402.07(e).

In addition to amending the identification as suggested, applicant may respond to the stated requirement by doing one of the following:

Applicant may respond to the stated refusal by submitting evidence and arguments against the refusal. In addition, applicant may respond by doing one of the following:

- (1) Deleting the goods to which the requirement pertains; or

(2) Filing a [Request to Divide Application form](#) (form #3) to divide out the goods that have not been refused registration so that the mark may proceed toward publication for opposition for those goods to which the requirement does not pertain. *See* 37 C.F.R. §2.87. *See generally* TMEP §§1110 *et seq.* (regarding the requirements for filing a request to divide). If applicant files a request to divide, then to avoid abandonment, applicant must also file a timely response to this Office action. 37 C.F.R. §2.87(e).

Response to Office Action Required to Avoid Partial Abandonment

If applicant does not respond to this Office action by the response deadline, the following goods will be deleted from the application:

Downloadable electronic appointment books; Binders for CDs; Downloadable and recorded electronic books in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design; Downloadable printable pocket calendars; Downloadable digital calendars; Downloadable magazines in the fields of medical practice management, wellness, behavioral health, healthcare, lifestyle, travel, entertainment, and design; Pre-recorded, non-downloadable video discs, video recording and video tapes featuring health, fitness, exercise, wellness, personal development, mental therapy, and medicine

The application will then proceed with the following goods only:

Audio-books contained on disc or in electronic format such as mpegs or other prerecorded audio formats in the fields of meditation, health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Cases for holding compact discs, DVDs, and other electronic media; Computer accessories, namely, computer peripherals; Downloadable and recorded computer software for data processing, billing, collections, referrals, records management, operations, scheduling, staff support, and recruitment in the field of medical practice management; Downloadable computer application software for mobile phones, namely, software for meditation instruction; Downloadable computer software for meditation instruction in the fields of health, fitness, exercise, wellness, personal development, mental therapy, and medicine; Downloadable electronic publications in the nature of books, booklets, magazines, journals, brochures, pamphlets and newsletters, all in the field of medical practice management; Mouse pads; Skins or covers for cell phones, PDAs, laptops, portable media players, tablet computers, e-book readers; Timers to be used for meditation purposes

See 37 C.F.R. §2.65(a)-(a)(1); TMEP §718.02(a).

How to respond. File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

/Jeanine Gagliardi/
Jeanine Gagliardi
Examining Attorney
LO120--LAW OFFICE 120
(571) 272-3177
Jeanine.Gagliardi@USPTO.GOV

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on July 6, 2023 for
U.S. Trademark Application Serial No. 90468939

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.